

United States Bankruptcy Court  
Eastern District of North Carolina

In re:

CAH Acquisition Company 1, LLC d/b/a Was  
Debtor

Case No. 19-00730-JNC  
Chapter 11

District/off: 0417-5

User: admin

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Date Rcvd: Jun 22, 2023

Form ID: pdf014

Total Noticed: 3

The following symbols are used throughout this certificate:

**Symbol** **Definition**

- + Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

**Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jun 24, 2023:**

Recip ID	Recipient Name and Address
db	+ CAH Acquisition Company 1, LLC d/b/a Washington Co, 958 U.S. Highway 64 East, Plymouth, NC 27962-9216
sp	+ Micah E. Marcus, McDonald Hopkins LLC, 300 N. LaSalle, Suite 1400, Chicago, IL 60654, UNITED STATES 60654-3474
sp	+ Sean D. Malloy, McDonald Hopkins LLC, 660 Superior Ave., E., Suite 2100, Cleveland, OH 44144, UNITED STATES 44113

TOTAL: 3

**Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.**

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Jun 24, 2023

Signature: /s/Gustava Winters

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on June 22, 2023 at the address(es) listed below:

**Name** **Email Address**

Allison Jean Becker

on behalf of Defendant Rampey Enterprises Inc. abecker@grsm.com  
cxsmith@grsm.com;rvillaronga@grsm.com;ncleveland@grsm.com

Anthony F. Giuliano

on behalf of Defendant App Group International LLC afg@glpcny.com

Benjamin E.F.B. Waller

on behalf of Trustee Thomas W. Waldrep Jr. bwaller@hendrenmalone.com,  
jgorman@hendrenmalone.com;ygadalla@hendrenmalone.com

Benjamin E.F.B. Waller

on behalf of Plaintiff Thomas W. Waldrep Jr. bwaller@hendrenmalone.com,  
jgorman@hendrenmalone.com;ygadalla@hendrenmalone.com

Brian Behr

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on behalf of Bankruptcy Administrator Bankruptcy Administrator brian\_behr@nceba.uscourts.gov  
rick\_hinson@nceba.uscourts.gov;lesley\_dean@nceba.uscourts.gov;tanya\_aycock@nceba.uscourts.gov;karen\_cook@nceba.uscourts.gov

Brian H. Smith

on behalf of Creditor Complete Business Solutions Group Inc. BRIAN.H.SMITH@FNF.COM

Brian R. Anderson

on behalf of Special Counsel Greenberg Traurig P.A. BRAnderson@foxrothschild.com, pwilliams@foxrothschild.com

Brian R. Anderson

on behalf of Health Care Ombudsman Suzanne Koenig BRAnderson@foxrothschild.com pwilliams@foxrothschild.com

Brian R. Anderson

on behalf of Special Counsel Greenberg Trauig LLP BRAnderson@foxrothschild.com, pwilliams@foxrothschild.com

Brian R. Anderson

on behalf of Other Professional SAK Management Services LLC BRAnderson@foxrothschild.com, pwilliams@foxrothschild.com

Byron L. Saintsing

on behalf of Defendant Funderz.net LLC d/b/a WG Capital bsaintsing@smithdebnamlaw.com

Byron L. Saintsing

on behalf of Creditor Siemens Financial Services Inc. bsaintsing@smithdebnamlaw.com

Catharine Edwards

on behalf of Creditor Lindell Gardner cee@eblaw.com

Catharine Edwards

on behalf of Creditor Monroe Guest cee@eblaw.com

Catharine Edwards

on behalf of Creditor Dennis Loudermilk cee@eblaw.com

Catharine Edwards

on behalf of Creditor LGMG LLC d/b/a Verifi Labs and d/b/a Verifi Resource Group cee@eblaw.com

Charles N. Anderson, Jr.

on behalf of Interested Party Blue Cross Blue Shield of Oklahoma chuck.anderson@elliswinters.com  
patricia.hutchins@elliswinters.com;teri.rodriguez@elliswinters.com

Christopher J. Waivers

on behalf of Creditor Hospital Equipment Rental Company cwaivers@whiteandallen.com abarron@whiteandallen.com

Christopher Scott Kirk

on behalf of Creditor Megan Place scott@csklawoffice.com KirkSR83410@notify.bestcase.com

Dan Nelson

on behalf of Creditor Premier Specialty Network LLC dan.nelson@kutakrock.com

David J Haidt

on behalf of Interested Party Fairfax Healthcare Authority david@ayershaidt.com joy@ayershaidt.com

David J Haidt

on behalf of Other Professional C. David Rhoades david@ayershaidt.com joy@ayershaidt.com

David J Haidt

on behalf of Creditor First Liberty Bank david@ayershaidt.com joy@ayershaidt.com

David J Haidt

on behalf of Interested Party Brent King david@ayershaidt.com joy@ayershaidt.com

David J Haidt

on behalf of Interested Party City of Drumright Oklahoma david@ayershaidt.com, joy@ayershaidt.com

David J Haidt

on behalf of Creditor Fairfax Healthcare Authority david@ayershaidt.com joy@ayershaidt.com

David J Haidt

on behalf of Interested Party Cohesive Healthcare Management and Consulting david@ayershaidt.com joy@ayershaidt.com

David J Haidt

on behalf of Other Professional Brent King david@ayershaidt.com joy@ayershaidt.com

Dennis M. Duffy

on behalf of Creditor Internal Revenue Service usance.bankruptcy@usdoj.gov

E. Franklin Childress

on behalf of Creditor CAH Acquisition Company 11 LLC fchildress@bakerdonelson.com

Eric Winston

on behalf of Interested Party Rural Wellness Fairfax Inc. ericwinston@quinnmanuel.com

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Eric J. Langston

on behalf of Defendant Michael Reece elangston@aegislaw.com ericlangston357@gmail.com@recap.email

Eric J. Langston

on behalf of Defendant Rural Lab Outreach LLC elangston@aegislaw.com, ericlangston357@gmail.com@recap.email

Eric J. Langston

on behalf of Defendant Reboot Inc. d/b/a HIPAA GUARD elangston@aegislaw.com, ericlangston357@gmail.com@recap.email

Eric L. Johnson

on behalf of Creditor First Capital Corporation ejohnson@spencerfane.com

Erin K. Duffy

on behalf of Interested Party Boa Vida Foundation Inc. erin@janvierlaw.com, erin@janvierlaw.com;june@janvierlaw.com;samantha@janvierlaw.com

Erin K. Duffy

on behalf of Creditor Haskell Regional Hospital Inc. erin@janvierlaw.com, erin@janvierlaw.com;june@janvierlaw.com;samantha@janvierlaw.com

Erin K. Duffy

on behalf of Creditor Oswego Neuropsych Hospital Inc. erin@janvierlaw.com, erin@janvierlaw.com;june@janvierlaw.com;samantha@janvierlaw.com

Erin K. Duffy

on behalf of Interested Party Boa Vida Foundation erin@janvierlaw.com erin@janvierlaw.com;june@janvierlaw.com;samantha@janvierlaw.com

Ethridge B. Ricks

on behalf of Interested Party Aetna Life Insurance Company bricks@mcguirewoods.com

Ethridge B. Ricks

on behalf of Creditor Aetna Inc. bricks@mcguirewoods.com

Ethridge B. Ricks

on behalf of Interested Party Aetna Health Inc. bricks@mcguirewoods.com

Ethridge B. Ricks

on behalf of Interested Party Rural Wellness Fairfax Inc. bricks@mcguirewoods.com

Evan A. Lee

on behalf of Plaintiff Thomas W. Waldrep Jr. 3111956420@filings.docketbird.com

Evan A. Lee

on behalf of Trustee Thomas W. Waldrep Jr. 3111956420@filings.docketbird.com

Felton E. Parrish

on behalf of Interested Party Bank of Hays felton.parrish@alexanderricks.com

Felton E. Parrish

on behalf of Interested Party City of Hillboro Kansas and the Public Building Commission of Hillsboro, Kansas felton.parrish@alexanderricks.com

Felton E. Parrish

on behalf of Interested Party Security Bank of Kansas City felton.parrish@alexanderricks.com

Felton E. Parrish

on behalf of Other Professional Brent King felton.parrish@alexanderricks.com

Francisco T. Morales

on behalf of Trustee Thomas W. Waldrep Jr. notice@waldrepllp.com, 8899@notices.nextchapterbk.com

George M. Oliver

on behalf of Other Professional Sherwood Partners Inc. efile@ofc-law.com, george@olivercheek.com;pam@olivercheek.com;katymac@olivercheek.com;clayton@olivercheek.com;linda@olivercheek.com;ben@olivercheek.com;dawn@olivercheek.com;christa@olivercheek.com;austin@olivercheek.com

James Albert Barnes, IV

on behalf of Creditor LGMG LLC d/b/a Verifi Labs and d/b/a Verifi Resource Group jim@oxendinebarnes.com

James Albert Barnes, IV

on behalf of Defendant Monroe Guest jim@oxendinebarnes.com

James Albert Barnes, IV

on behalf of Defendant Lindell Gardner jim@oxendinebarnes.com

James Albert Barnes, IV

on behalf of Creditor Monroe Guest jim@oxendinebarnes.com

James Albert Barnes, IV

on behalf of Defendant LGMG LLC d/b/a Verifi Labs and d/b/a Verifi Resource Group jim@oxendinebarnes.com

James Albert Barnes, IV

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on behalf of Creditor Lindell Gardner jim@oxendinebarnes.com

James Albert Barnes, IV

on behalf of Creditor Dennis Loudermilk jim@oxendinebarnes.com

James Albert Barnes, IV

on behalf of Defendant Dennis Loudermilk jim@oxendinebarnes.com

James C. Lanik

on behalf of Plaintiff Thomas W. Waldrep Jr. notice@waldrepwall.com, trustee@waldrepllp.com;7357193420@filings.docketbird.com

James C. Lanik

on behalf of Trustee Thomas W. Waldrep Jr. notice@waldrepwall.com, trustee@waldrepllp.com;7357193420@filings.docketbird.com

James C. Lanik

on behalf of Plaintiff Thomas W. Waldrep Jr. Trustee notice@waldrepwall.com, trustee@waldrepllp.com;7357193420@filings.docketbird.com

James C. Lanik

on behalf of Plaintiff Thomas W. Waldrep Jr., Trustee notice@waldrepwall.com, trustee@waldrepllp.com;7357193420@filings.docketbird.com

James S. Livermon, III

on behalf of Defendant Michael Reece Charlie.livermon@wbd-us.com kim.cone@wbd-us.com

James S. Livermon, III

on behalf of Defendant Reboot Inc. d/b/a HIPAA GUARD Charlie.livermon@wbd-us.com, kim.cone@wbd-us.com

James S. Livermon, III

on behalf of Defendant Rural Lab Outreach LLC Charlie.livermon@wbd-us.com, kim.cone@wbd-us.com

Jason L. Hendren

on behalf of Trustee Thomas W. Waldrep Jr. jhendren@hendrenmalone.com, jgorman@hendrenmalone.com;ygadalla@hendrenmalone.com

Jason L. Hendren

on behalf of Plaintiff Thomas W. Waldrep Jr. jhendren@hendrenmalone.com, jgorman@hendrenmalone.com;ygadalla@hendrenmalone.com

Jeffrey C Wisler

on behalf of Creditor Cigna HealthCare of North Carolina Inc. jwisler@connollygallagher.com

Jeffrey C Wisler

on behalf of Creditor Cigna Health and Life Insurance Company jwisler@connollygallagher.com

Jeffrey R. Whitley

on behalf of Creditor First Capital Corporation jwhitley@foxrothschild.com cindy.mann@smithmoorelaw.com

Jennifer B. Lyday

on behalf of Financial Advisor Grant Thornton LLP notice@waldrepwall.com, 8836221420@filings.docketbird.com

Jennifer B. Lyday

on behalf of Special Counsel Parker Hudson Rainer &amp; Dobbs LLP notice@waldrepwall.com, 8836221420@filings.docketbird.com

Jennifer B. Lyday

on behalf of Special Counsel Flanagan &amp; Associates LLC notice@waldrepwall.com, 8836221420@filings.docketbird.com

Jennifer B. Lyday

on behalf of Accountant Arnett Carbis Toothman LLP notice@waldrepwall.com 8836221420@filings.docketbird.com

Jennifer B. Lyday

on behalf of Plaintiff Thomas W. Waldrep Jr. notice@waldrepwall.com, 8836221420@filings.docketbird.com

Jennifer B. Lyday

on behalf of Accountant Arnett Carbis Toothman LLP and its successor Baker Tilly US, LLP notice@waldrepwall.com, 8836221420@filings.docketbird.com

Jennifer B. Lyday

on behalf of Special Counsel McDonald Hopkins LLC notice@waldrepwall.com, 8836221420@filings.docketbird.com

Jennifer B. Lyday

on behalf of Trustee Thomas W. Waldrep Jr. notice@waldrepwall.com, 8836221420@filings.docketbird.com

John A. Northen

on behalf of Defendant Rural Community Hospitals of America LLC jan@nbfir.com, nc30@ecfcbis.com;jla@nbfir.com;skc@nbfir.com

John A. Northen

on behalf of Creditor Estate of Paul Nusbaum jan@nbfir.com nc30@ecfcbis.com;jla@nbfir.com;skc@nbfir.com

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John A. Northen

on behalf of Defendant Michael Nusbaum as the successor Administrator of the Nusbaum Estate jan@nbfarm.com  
nc30@ecfcbis.com;jla@nbfarm.com;skc@nbfarm.com

John A. Northen

on behalf of Interested Party Rural Community Hospitals of America LLC jan@nbfarm.com,  
nc30@ecfcbis.com;jla@nbfarm.com;skc@nbfarm.com

John A. Northen

on behalf of Defendant Steve White jan@nbfarm.com nc30@ecfcbis.com;jla@nbfarm.com;skc@nbfarm.com

John A. Northen

on behalf of Creditor Steven F. White jan@nbfarm.com nc30@ecfcbis.com;jla@nbfarm.com;skc@nbfarm.com

John A. Northen

on behalf of Interested Party Estate of Paul Nusbaum jan@nbfarm.com nc30@ecfcbis.com;jla@nbfarm.com;skc@nbfarm.com

John A. Northen

on behalf of Creditor Sun Finance Inc. jan@nbfarm.com, nc30@ecfcbis.com;jla@nbfarm.com;skc@nbfarm.com

John G. Rhyne

on behalf of Creditor Slack &amp; Company LLC johnrhyne@johnrhynelaw.com beth@johnrhynelaw.com

John M. Sperati

on behalf of Creditor Somerset Capital Group Ltd. jsperati@smithdebnamlaw.com,  
dkinlaw@smithdebnamlaw.com;cmcghee@smithdebnamlaw.com

John M. Sperati

on behalf of Creditor Somerset Leasing Corp XXII jsperati@smithdebnamlaw.com,  
dkinlaw@smithdebnamlaw.com;cmcghee@smithdebnamlaw.com

John Paul Hughes Cournoyer

on behalf of Creditor Paul L. Nusbaum jpc@nbfarm.com jla@nbfarm.com;skc@nbfarm.com

John Paul Hughes Cournoyer

on behalf of Creditor Sun Finance Inc. jpc@nbfarm.com, jla@nbfarm.com;skc@nbfarm.com

John Paul Hughes Cournoyer

on behalf of Creditor Steven F. White jpc@nbfarm.com jla@nbfarm.com;skc@nbfarm.com

John Paul Hughes Cournoyer

on behalf of Interested Party Rural Community Hospitals of America LLC jpc@nbfarm.com, jla@nbfarm.com;skc@nbfarm.com

John R. Van Swearingen

on behalf of Trustee Thomas W. Waldrep Jr. 1107444420@filings.docketbird.com

John R. Van Swearingen

on behalf of Plaintiff Thomas W. Waldrep Jr. 1107444420@filings.docketbird.com

John R. Van Swearingen

on behalf of Plaintiff Thomas W. Waldrep Jr. Trustee 1107444420@filings.docketbird.com

Jonathan E. Friesen

on behalf of Creditor Wendy C. Phillips jef@gillespieandmurphy.com  
cjones@lawyersforchrist.com;mholland@lawyersforchrist.com

Joseph Samuel Dowdy

on behalf of Creditor Blue Cross Blue Shield of North Carolina jdowdy@kilpatricktownsend.com

Katherine Montgomery McCraw

on behalf of Creditor NC Dept of Health and Human Services DHB kmccraw@ncdoj.gov,  
ekaczynski@ncdoj.gov;rstipe@ncdoj.gov;kchadwick@ncdoj.gov

Kelly Alfred Cameron

on behalf of Plaintiff Thomas W. Waldrep Jr. Trustee kcameron@waldrepwall.com

Kirstin E. Gardner

on behalf of Bankruptcy Administrator Bankruptcy Administrator kirstin\_gardner@ncea.uscourts.gov  
Tanya\_aycock@ncea.uscourts.gov

Lauren A. Golden

on behalf of Creditor Department of Health and Human Services lauren.golden@usdoj.gov kristen.caldaro@usdoj.gov

Marjorie K. Lynch

on behalf of Bankruptcy Administrator Bankruptcy Administrator mklynchjd@gmail.com  
lynn\_tingen@ncea.uscourts.gov;karen\_hayes@ncea.uscourts.gov;lesley\_cavanaugh@ncea.uscourts.gov;Tanya\_aycock@ncea.uscourts.gov

Mark A. Pinkston

on behalf of Creditor ERx LLC dnav@vwlawfirm.com, mpennington@vwlawfirm.com

Mathew A. Petersen

on behalf of Creditor First Capital Corporation mpetersen@spencerfane.com

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Total Noticed: 3

Melanie Johnson Raubach

on behalf of Interested Party Atchison Hospital Association mraubach@lawhssm.com  
vhughes@lawhssm.com;rkelley@lawhssm.com;mwiner@lawhssm.com

Michael J. Quinn

on behalf of Creditor Department of Health and Human Services michael.quinn3@usdoj.gov

Nancy A. Peterman

on behalf of Health Care Ombudsman Suzanne Koenig petermann@gtlaw.com

Neal Fowler

on behalf of Creditor Centers for Medicare and Medicaid Services neal.fowler@usdoj.gov usance.bankruptcy@usdoj.gov

Neal Fowler

on behalf of Interested Party Centers for Medicare and Medicaid Services neal.fowler@usdoj.gov usance.bankruptcy@usdoj.gov

Nicholas Zluticky

on behalf of Creditor First Liberty Bank nick.zluticky@stinson.com

Nicholas Zluticky

on behalf of Interested Party Bank of Hays nick.zluticky@stinson.com

Pamela P. Keenan

on behalf of Creditor Hitachi Capital America Corp. pkeenan@kirschlaw.com

Patricia E. Hamilton

on behalf of Other Professional Brent King phamilton@stevensbrand.com

Paul A. Fanning

on behalf of Interested Party Cohesive Healthcare Management and Consulting LLC paf@wardandsmith.com,  
DocketCR@wardandsmith.com;blspang@wardandsmith.com;nsf@wardandsmith.com

Paul A. Fanning

on behalf of Creditor Cohesive Healthcare Management and Consulting LLC paf@wardandsmith.com,  
DocketCR@wardandsmith.com;blspang@wardandsmith.com;nsf@wardandsmith.com

Rayford K. Adams, III

on behalf of Debtor CAH Acquisition Company 12 LLC tadams@spilmanlaw.com, cpeterson@spilmanlaw.com

Rayford K. Adams, III

on behalf of Debtor CAH Acquisition Company 1 LLC d/b/a Washington County Hospital tadams@spilmanlaw.com,  
cpeterson@spilmanlaw.com

Rayford K. Adams, III

on behalf of Debtor CAH Acquisition Company 6 LLC tadams@spilmanlaw.com, cpeterson@spilmanlaw.com

Rayford K. Adams, III

on behalf of Debtor CAH Acquisition Company 16 LLC tadams@spilmanlaw.com, cpeterson@spilmanlaw.com

Rayford K. Adams, III

on behalf of Debtor CAH Acquisition Company 3 LLC tadams@spilmanlaw.com, cpeterson@spilmanlaw.com

Rayford K. Adams, III

on behalf of Debtor CAH Acquisition Company 7 LLC tadams@spilmanlaw.com, cpeterson@spilmanlaw.com

Rayford K. Adams, III

on behalf of Debtor CAH Acquisition Company 2 LLC tadams@spilmanlaw.com, cpeterson@spilmanlaw.com

Rayford K. Adams, III

on behalf of Debtor CAH Acquisition Company 4 Inc. tadams@spilmanlaw.com, cpeterson@spilmanlaw.com

Rebecca Lindahl

on behalf of Creditor Affinity Health Partners LLC rebecca.lindahl@kattenlaw.com, courtalertclt@katten.com

Rebecca Lindahl

on behalf of Other Professional Affinity Health Partners LLC rebecca.lindahl@kattenlaw.com, courtalertclt@katten.com

Rebecca F. Redwine

on behalf of Trustee Thomas W. Waldrep Jr. rredwine@hendrenmalone.com,  
jgorman@hendrenmalone.com;ygadalla@hendrenmalone.com

Rebecca F. Redwine

on behalf of Plaintiff Thomas W. Waldrep Jr. rredwine@hendrenmalone.com,  
jgorman@hendrenmalone.com;ygadalla@hendrenmalone.com

Ross A. Plourde

on behalf of Creditor Cohesive Healthcare Management and Consulting LLC ross.plourde@mcafeetaft.com

Ross A. Plourde

on behalf of Creditor Total Medical Personnel Staffing ross.plourde@mcafeetaft.com

Ross A. Plourde

on behalf of Interested Party Cohesive Healthcare Management and Consulting LLC ross.plourde@mcafeetaft.com

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Ryan Delaney Oxendine

on behalf of Defendant Dennis Loudermilk ryan@oxendinepricelaw.com

Ryan Delaney Oxendine

on behalf of Creditor LGMG LLC d/b/a Verifi Labs and d/b/a Verifi Resource Group ryan@oxendinepricelaw.com

Ryan Delaney Oxendine

on behalf of Defendant LGMG LLC d/b/a Verifi Labs and d/b/a Verifi Resource Group ryan@oxendinepricelaw.com

Ryan Delaney Oxendine

on behalf of Creditor Dennis Loudermilk ryan@oxendinepricelaw.com

Ryan Delaney Oxendine

on behalf of Defendant Monroe Guest ryan@oxendinepricelaw.com

Ryan Delaney Oxendine

on behalf of Defendant Lindell Gardner ryan@oxendinepricelaw.com

Ryan Delaney Oxendine

on behalf of Creditor Monroe Guest ryan@oxendinepricelaw.com

Ryan Delaney Oxendine

on behalf of Creditor Lindell Gardner ryan@oxendinepricelaw.com

Sam G. Bratton, II

on behalf of Debtor CAH Acquisition Company 12 LLC sbratton@dsda.com

Sam G. Bratton, II

on behalf of Interested Party Doerner Saunders, Daniel &amp; Anderson, LLP sbratton@dsda.com

Sharon L Stolte

on behalf of Other Professional Brent King sstolte@sandbergphoenix.com

Sharon L Stolte

on behalf of Interested Party Brent King sstolte@sandbergphoenix.com

Stephen W. Petersen

on behalf of Creditor First Capital Corporation spetersen@foxrothschild.com cindy.mann@smithmoorelaw.com

Steven A. Ginther

on behalf of Creditor Missouri Department of Revenue ednc@dor.mo.gov

Thomas W. Waldrep, Jr.

on behalf of Financial Advisor Grant Thornton LLP notice@waldrepwall.com, 2942809420@filings.docketbird.com;NC71@ecfcbis.com

Thomas W. Waldrep, Jr.

on behalf of Accountant Arnett Carbis Toothman LLP notice@waldrepwall.com 2942809420@filings.docketbird.com;NC71@ecfcbis.com

Thomas W. Waldrep, Jr.

on behalf of Plaintiff Thomas W. Waldrep Jr. Trustee notice@waldrepwall.com, 2942809420@filings.docketbird.com;NC71@ecfcbis.com

Thomas W. Waldrep, Jr.

on behalf of Special Counsel Parker Hudson Rainer &amp; Dobbs LLP notice@waldrepwall.com, 2942809420@filings.docketbird.com;NC71@ecfcbis.com

Thomas W. Waldrep, Jr.

on behalf of Plaintiff Thomas W. Waldrep Jr. notice@waldrepwall.com, 2942809420@filings.docketbird.com;NC71@ecfcbis.com

Thomas W. Waldrep, Jr.

on behalf of Trustee Thomas W. Waldrep Jr. notice@waldrepwall.com, 2942809420@filings.docketbird.com;NC71@ecfcbis.com

Thomas W. Waldrep, Jr.

on behalf of Plaintiff Thomas W. Waldrep Jr., Trustee notice@waldrepwall.com, 2942809420@filings.docketbird.com;NC71@ecfcbis.com

Travis Sasser

on behalf of Creditor Saline County Collector travis@sasserbankruptcy.com sasserlaw230@gmail.com;SasserTR70250@notify.bestcase.com;SasserLawFirm@jubileebk.net

Tyler E. Heffron

on behalf of Interested Party City of Hillboro Kansas and the Public Building Commission of Hillsboro, Kansas theffron@twgfirm.com

Vicki L. Parrott

on behalf of Creditor Sun Finance Inc. vlp@nbfir.com, jla@nbfir.com;sk5@nbfir.com

Vicki L. Parrott

on behalf of Interested Party Estate of Paul Nusbaum vlp@nbfir.com jla@nbfir.com;sk5@nbfir.com

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Vicki L. Parrott

on behalf of Creditor Steven F. White vlp@nbfir.com jla@nbfir.com;sk5@nbfir.com

Vicki L. Parrott

on behalf of Creditor Estate of Paul Nusbaum vlp@nbfir.com jla@nbfir.com;sk5@nbfir.com

Vicki L. Parrott

on behalf of Defendant Rural Community Hospitals of America LLC vlp@nbfir.com, jla@nbfir.com;sk5@nbfir.com

Vicki L. Parrott

on behalf of Interested Party Rural Community Hospitals of America LLC vlp@nbfir.com, jla@nbfir.com;sk5@nbfir.com

Vicki L. Parrott

on behalf of Defendant Steve White vlp@nbfir.com jla@nbfir.com;sk5@nbfir.com

Wesley F. Smith

on behalf of Other Professional Brent King wsmith@stevensbrand.com

William C. Smith, Jr.

on behalf of Interested Party Transcendental Union with Love and Spirit smith@manningfulton.com  
steinman@manningfulton.com

William C. Smith, Jr.

on behalf of Assignee Transcendental Union and Love Spiritual Advancement smith@manningfulton.com  
steinman@manningfulton.com

William P Janvier

on behalf of Interested Party Boa Vida Foundation Inc wjanvier@smvt.com,  
laura@janvierlaw.com;june@janvierlaw.com;kelly@janvierlaw.com;kelly@janvierlaw.com;R55537@notify.bestcase.com;darlene@janvierlaw.com;lpetruska@smvt.com

William P Janvier

on behalf of Interested Party Boa Vida Foundation wjanvier@smvt.com  
laura@janvierlaw.com;june@janvierlaw.com;kelly@janvierlaw.com;kelly@janvierlaw.com;R55537@notify.bestcase.com;darlene@janvierlaw.com;lpetruska@smvt.com

William P Janvier

on behalf of Interested Party Boa Vida Foundation Inc. wjanvier@smvt.com,  
laura@janvierlaw.com;june@janvierlaw.com;kelly@janvierlaw.com;kelly@janvierlaw.com;R55537@notify.bestcase.com;darlene@janvierlaw.com;lpetruska@smvt.com

William Walt Pettit

on behalf of Creditor Ryan Stumphauzer as Receiver for Complete Business Solutions Group Inc.  
walt.pettit@hutchenslawfirm.com, renee.copley@hutchenslawfirm.com

William Walt Pettit

on behalf of Creditor Complete Business Solutions Group Inc. walt.pettit@hutchenslawfirm.com,  
renee.copley@hutchenslawfirm.com

TOTAL: 170

**SO ORDERED.**

**SIGNED this 22 day of June, 2023.**



  
Joseph N. Callaway  
United States Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
GREENVILLE DIVISION**

In re:	)	
	)	
CAH ACQUISITION COMPANY #1, LLC,	)	Case No. 19-00730-5-JNC
d/b/a WASHINGTON COUNTY HOSPITAL,	)	Chapter 11
	)	
Debtor.	)	
	)	
In re:	)	
	)	
CAH ACQUISITION COMPANY #2, LLC,	)	Case No. 19-01230-5-JNC
d/b/a OSWEGO COMMUNITY HOSPITAL,	)	Chapter 11
	)	
Debtor.	)	
	)	
In re:	)	
	)	
CAH ACQUISITION COMPANY #3, LLC,	)	Case No. 19-01180-5-JNC
d/b/a HORTON COMMUNITY HOSPITAL,	)	Chapter 11
	)	
Debtor.	)	
	)	
In re:	)	
	)	
CAH ACQUISITION COMPANY 6, LLC,	)	Case No. 19-01300-5-JNC
d/b/a I-70 COMMUNITY HOSPITAL,	)	Chapter 7
	)	
Debtor.	)	

In re:	)	
	)	
CAH ACQUISITION COMPANY 7, LLC,	)	Case No. 19-01298-5-JNC
d/b/a PRAGUE COMMUNITY HOSPITAL,	)	Chapter 11
	)	
Debtor.	)	
<hr/>		
In re:	)	
	)	
CAH ACQUISITION COMPANY 12, LLC,	)	Case No. 19-01697-5-JNC
d/b/a FAIRFAX COMMUNITY HOSPITAL,	)	Chapter 11
	)	
Debtor.	)	
<hr/>		
In re:	)	
	)	
CAH ACQUISITION COMPANY 16, LLC,	)	Case No. 19-01227-5-JNC
d/b/a HASKELL COUNTY COMMUNITY	)	Chapter 11
HOSPITAL,	)	
	)	
Debtor.	)	

**ORDER ON COMPENSATION FOR SPECIAL COUNSEL  
MCDONALD HOPKINS, LLP, FOR LITIGATION FUNDING PROCUREMENT**

The matter before the Court is contained in the Motion for Order Authorizing and Approving (I) Litigation Funding Agreement with Omni Bridgeway (Fund 4) INVT. 3 L.P.; (II) Engagement Agreement with McDonald Hopkins, LLP, related to Litigation Funding; and (III) Engagement Agreements with Waldrep Wall Babcock and Bailey, PLLC, and McDonald Hopkins, LLP, Related to Litigation Funding, Effective from and after April 15, 2023 (Dkt. 1580; the “Motion”). The Motion was filed on May 23, 2023, by Thomas W. Waldrep, Jr., in his capacity as trustee of the estates of the above-captioned Debtors (“Trustee”). This order is limited to the request listed in component (II) above concerning compensation sought by special litigation counsel, McDonald Hopkins, LLP, for its work related to obtaining procurement of the Litigation Funding Agreement. The Bankruptcy Administrator filed a response to the Motion (Dkt. 1588; the “Response”) on June 13, 2023. The Motion and Response were heard by the court on June 20, 2023, in Greenville, North Carolina.

At the hearing, after considering the evidence presented and arguments of counsel, components (I) and (III) of the Motion were approved in part. A separate order regarding the same was entered on June 22, 2023 (Dkt. 1593). In support of the relief requested in component (II), the court also considered the Affidavit of Marc Carmel (Dkt. 1586; the “Affidavit”) filed June 5, 2023. In the Affidavit, Mr. Carmel details the work, time and effort expended in obtaining the Litigation Funding Agreement now approved by the court. The services were rendered between December 15, 2021, and May 23, 2023, as detailed and itemized in Exhibit A attached to the Affidavit. The compensation sought totals \$90,665.50 when calculated at the firm’s normal hourly rates for the professionals listed. McDonald Hopkins then seeks to double that compensation to \$181,331.00 based on risk, value, and success.

McDonald Hopkins argues that the nature, value, and risk of the matter should be considered as a broker fee request rather than attorney time. However, McDonald Hopkins never sought and was not employed as a broker for the Litigation Trusts and the Trustee in these cases. It therefore has no authority to seek broker compensation. Even if such employment had been sought, the court was unlikely to grant the same. McDonald Hopkins is employed as special litigation counsel for the Litigation Trusts and Trustee, and as such it and its attorneys owe a higher degree of loyalty and professionalism than any mere broker. In fact, from the record it appears McDonald Hopkins has provided that higher degree of loyalty and professionalism in this matter that the court expects. The work in obtaining litigation funding is well within attorney work scope.

For these reasons and others appearing of record, the court declined to treat the request as a broker fee, but instead, reviewed the matter as a legal fee request made under sections 330 and 331 of the Bankruptcy Code, plus a request for fee enhancement. The court has reviewed and finds that the underlying fee request, for the actual and detailed time set forth in the Affidavit, was reasonable and necessary work for the Litigation Trusts and Trustee performed within the scope of McDonald Hopkins' employment. The \$90,665.50 base fee sought is accordingly approved as stated at the hearing.

The court next considered whether an enhancement of the base amount would be warranted under factors enumerated by the Fifth Circuit in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), adopted in the Fourth Circuit as the test for fee enhancement in *Barber v. Kimbrell's, Inc.*, 577 F.2d 216, 226 (4th Cir.), *cert. denied*, 439 U.S. 934, 99 S.Ct. 329, 58 L.Ed.2d 330 (1978). After reviewing the "Johnson Factors" applicable here, the court declines to double the base fee, finding that the work does not merit such a large enhancement. However, the request for some enhancement is appropriate given the associated risks and success. The court in its discretion awards a success bonus in the amount of \$34,334.50 for a total approved fee of \$125,000.00 (including costs). The amount was announced in open court at the hearing and no party present objected.

THEREFORE, it is ORDERED and DECREED that compensation and fees for McDonald Hopkins, LLP, as special counsel for the Trustee, is ALLOWED and GRANTED in the total amount of \$125,000 for the work performed between December 15, 2021, through May 23, 2023, specified in Exhibit A attached to the Affidavit and sought in the Motion. Such amount may be paid by the Trustee from proceeds drawn from the approved Litigation Funding Agreement approved in the Litigation Funding Order when appropriate in his business judgment.

**END OF DOCUMENT**